



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

Via First-Class Mail

Paul Kilgore  
18th District Republican Central Committee  
(Federal Account)  
P.O. Box 10362  
Peoria, IL 61612

DEC - 8 2015

RE: MUR 6733  
18th District Republican Central  
Committee (Federal Account) and  
Paul Kilgore in his official capacity  
as treasurer

Dear Mr. Kilgore:

On May 8, 2013, the Federal Election Commission notified you of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended.

On November 19, 2015, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that 18th District Republican Central Committee (Federal Account) and its treasurer violated 52 U.S.C. § 30116(a). Accordingly, the Commission closed its file in this matter as it pertains to 18th District Republican Central Committee (Federal Account) and its treasurer.

The Commission reminds you that the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Tanya Senanayake, the attorney assigned to this matter, at (202) 694-1571.

Sincerely,

A handwritten signature in black ink that reads "Mark Allen".

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

11001440-1-2015

1 FEDERAL ELECTION COMMISSION

2  
3 RESPONDENT: 18th District Republican Central Committee MUR 6733  
4 (Federal Account) and Paul Kilgore in his  
5 official capacity as treasurer  
6

7 FACTUAL AND LEGAL ANALYSIS

8 I. INTRODUCTION

9 This matter arises from a Complaint that alleges violations of the Federal Election  
10 Campaign Act of 1971, as amended (“the Act”), arising from the 18th District Republican  
11 Central Committee (Federal Account) (“18th District Committee”), a local party committee in  
12 the 18th Congressional District of Illinois, making a \$25,000 contribution purportedly solicited  
13 by then-Representative Aaron Schock (18th District, Illinois), and/or directed by Schock’s staff,  
14 to the Campaign for Primary Accountability Inc. (“CPA”), an independent-expenditure-only  
15 political committee that supported Representative Adam Kinzinger’s candidacy in the 2012  
16 primary election in Illinois’s 16th Congressional District.

17 The Complaint bases its allegations on an Office of Congressional Ethics (“OCE”) 1004440120  
18 investigative report (“OCE Report”) submitted to the House of Representatives Committee on  
19 Ethics (“House Ethics”).<sup>1</sup> The 18th District Committee responds that it made the decision to  
20 make a permissible \$25,000 contribution to CPA, and that the Commission should dismiss the  
21 Complaint and find no reason to believe the Committee violated the Act.<sup>2</sup>

22 Based on the available information, the Commission finds no reason to believe that the  
23 18th District Committee made an excessive contribution in violation of § 30116(a).

<sup>1</sup> See Compl. at 2, Attach. A (May 1, 2013); OCE Review No. 12-9525, adopted Aug. 24, 2012, available at <http://ethics.house.gov/sites/ethics.house.gov/files/OCE%20Report%20Rep.%20Schock.pdf>. On February 6, 2013, OCE publicly released its report that it referred to House Ethics on August 30, 2012. See FEBRUARY 6, 2013—OCE REFERRAL REGARDING REP. AARON SCHOCK, available at <http://oce.house.gov/2013/02/february-6-2013---oce-referral-regarding-rep-aaron-schock.html>.

<sup>2</sup> 18th District Committee Resp. at 1 (June 27, 2013).

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 **A. Factual Summary**

3 Representatives Adam Kinzinger and Don Manzullo were candidates in the Illinois 16th  
4 Congressional District primary election held on March 20, 2012. Information in the  
5 Commission's possession indicates that Schock, who at the time was a member of Congress,  
6 supported Kinzinger and sought to assist him. Further information indicates that Schock learned  
7 that CPA was broadcasting advertisements opposing Manzullo and believed that CPA needed  
8 additional funds to be able to air the advertisements again prior to the election. Schock's first-  
9 person description of relevant events was quoted in a press article:

10 "The final week of the campaign, it got very tight, it was neck and neck. I  
11 was trying to do everything I could to help the Kinzinger campaign and  
12 reached out to the committee that was running ads in support of them."  
13

14 "They were basically running the television ads for him, [and] I asked if I  
15 could specify a donation to them," to be used only in the Illinois primary.  
16

17 "And they said I could."<sup>3</sup>  
18

19 CPA personnel state that Rodney Davis, then a staffer for Representative John Shimkus  
20 (15th District, Illinois),<sup>4</sup> was the contact person for the \$25,000 18th District Committee

<sup>3</sup> John Stanton, *Eric Cantor Gave \$25K to Anti-Incumbent PAC to Aid Adam Kinzinger*, ROLL CALL, Apr. 6, 2012, [http://www.rollcall.com/news/Eric\\_Cantor\\_Gave\\_Money\\_to\\_Super\\_PAC\\_to\\_Aid\\_Adam\\_Kinzinger-213651-1.html](http://www.rollcall.com/news/Eric_Cantor_Gave_Money_to_Super_PAC_to_Aid_Adam_Kinzinger-213651-1.html) (alteration in original). CPA aired and distributed independent expenditure advertisements opposing Manzullo totaling \$239,531.68, all during a period from March 8 through March 19, 2012. The only expenditures for television advertising — in the amounts of \$15,000; \$25,000; and \$35,000 respectively — all occurred on March 16 or 17, 2012, the day of or the day after the 18th District Committee contribution. See CPA 2012 Amended April Monthly Report at 38; CPA 24/48 Hour Notice of Independent Expenditures (Mar. 19, 2012). CPA's television advertisement is described in an e-mail from Rob Collins, Cantor's former Chief of Staff, as "the ad that Shimkus, Schöck and Cantor have sent money in to support that the Campaign for Primary Accountability is running." OCE Report Ex. 23 at 12-9525\_0140 (E-mail from Rob Collins to Ted Burnes (Mar. 15, 2012 10:24 AM)).

<sup>4</sup> Davis was elected in November 2012 to be the U.S. Representative from the 13th District in Illinois.

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1 contribution that CPA received on March 16, 2012, for the Kinzinger race.<sup>5</sup> CPA Development  
2 Coordinator Hannah Christian states that she contacted Davis to get the complete contact  
3 information for the donors who made contributions by wire transfer and was supposed to let  
4 Davis know when CPA received the wire transfer and when CPA made the media buys.<sup>6</sup> CPA  
5 Managing Director Jamie Story states that Davis wanted confirmation that CPA spent \$100,000  
6 on Kinzinger's race.<sup>7</sup> In an e-mail to Story on March 16, 2012, Davis, using his  
7 "volunteersforshimkus.org" address, asked for confirmation that CPA spent "at least \$100,000  
8 . . . on Rockford [Illinois] TV and any cable outlets you have added."<sup>8</sup>

9 The available information indicates that Schock's Campaign Director, Tania Hoerr, made  
10 the contribution to the 18th District Committee account at the direction of Schock's Chief of  
11 Staff, Steve Shearer.<sup>9</sup> Hoerr says that she:

12 • had the necessary banking information to make the online contribution because she

<sup>5</sup> See CPA 2012 Amended April Monthly Report at 9 (July 23, 2012); OCE Report Ex. 4 at 12-9525\_0021 (OCE Mem. of Interview of CPA Managing Director (Jamie Story) ¶ 12 ("Story MOI")); OCE Report Ex. 6 at 12-9525\_0028 (OCE Mem. of Interview of CPA Development Coordinator (Hannah Christian) ¶ 26 ("Christian MOI")). The OCE Report usually refers to CPA's Managing Director and Development Coordinator by their positions rather than their names, but they are identified in each other's interviews. See Story MOI ¶¶ 2, 6; Christian MOI ¶¶ 2, 6.

<sup>6</sup> Christian MOI ¶ 25.

<sup>7</sup> See Story MOI ¶ 18.

<sup>8</sup> OCE Report Ex. 5 at 12-9525\_024 (E-mail from Rodney Davis to Jamie Story (Mar. 16, 2012 02:27 PM CDT)). The e-mail reads "Jamie, the \$25k echeck yesterday was rescinded, and the money was wired today from the 18th Congressional District PAC. That puts you at \$90,000 already wired. \$10,000 more may have been wired today from Canning, but I am not sure there. Have John get me a copy of the buy that shows at least \$100,000 being spent on Rockford TV and any cable outlets you have added. Thx." *Id.* CPA did not disclose the receipt of a contribution from "Canning," and Story says she did not have any knowledge of such an individual. See Story MOI ¶ 17. "John" appears to refer to CPA's "head Republican strategist" referenced in an e-mail from Story to Davis. OCE Report Ex. 14 at 12-9525\_0115 (E-mail from Jamie Story to Rodney Davis (Mar. 14, 2012 01:20 PM CDT)).

<sup>9</sup> OCE Report Ex. 11 at 12-9525\_0100 (OCE Mem. of Interview of Tania Hoerr ¶¶ 3, 10 ("Hoerr MOI")). The OCE Report generally refers to Hoerr and Shearer by position rather than name, but they are identified in the Memoranda of Interviews of other witnesses. See, e.g., Christian MOI ¶ 19; Hoerr MOI ¶ 6. Hoerr is Schock's sister. See OCE Report at 15 n.62.

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1 established the 18th District Committee account and routinely deposits money into its  
2 account from Schock's joint fundraising committee, Schock Victory Committee  
3 ("Victory Committee");<sup>10</sup>  
4

- 5 • did not recall needing to get approval from anyone other than Shearer in order to make  
6 the contribution, and did not recall speaking to 18th District Committee Chairman Mike  
7 Bigger prior to making the contribution;<sup>11</sup>  
8
- 9 • was not sure why Bigger did not make the contribution online himself;<sup>12</sup>  
10
- 11 • did not speak to Schock at that time about the contribution and did not recall if Shearer  
12 told her if anyone requested that the contribution be made;<sup>13</sup> and  
13
- 14 • learned from CPA that it would take a significant amount of time to process the online  
15 contribution she made, and that Shearer contacted Bigger for him to make the  
16 contribution from the 18th District Committee via a wire transfer.<sup>14</sup>  
17

18 The online contribution was duly rescinded and replaced by a wire transfer from the 18th  
19 District Committee.<sup>15</sup> Davis informed CPA of the replacement by e-mail.<sup>16</sup> Shearer says that  
20 Bigger contacted him to ask for the wire transfer information after Bigger and Schock had a  
21 conversation about eight or nine days prior to the Kinzinger primary election.<sup>17</sup>

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<sup>10</sup> See Hoerr MOI ¶ 12. The Victory Committee amended its Statement of Organization on March 9, 2011, to add the 18th District Committee as a participating committee along with Schock for Congress (Schock's principal campaign committee), GOP Generation Y Fund (Schock's leadership PAC), and the National Republican Congressional Committee.

<sup>11</sup> *Id.* ¶ 13.

<sup>12</sup> *Id.* ¶ 15.

<sup>13</sup> *Id.* ¶ 14.

<sup>14</sup> *Id.* ¶¶ 16-19. According to Story, Davis put her in contact with someone at the 18th District Committee who wired the contribution to CPA. See Story MOI ¶ 15.

<sup>15</sup> See Hoerr MOI ¶ 19; Story MOI ¶¶ 14-15.

<sup>16</sup> See Davis E-mail to Story, *supra*.

<sup>17</sup> OCE Report Ex. 12 at 12-9525\_0106 (OCE Mem. of Interview of Steve Shearer ¶ 18).

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1           **B.     Legal Analysis**

2                   1.     Applicable Law

3           Under the Act and Commission regulations, federal candidates and officeholders; agents  
4 of federal candidates and officeholders; and entities directly or indirectly established, financed,  
5 maintained, controlled by, or acting on behalf of federal candidates or officeholders cannot  
6 “solicit” or “direct” funds in connection with an election for federal office, unless the funds are  
7 subject to the limitations, prohibitions, and reporting requirements of the Act.<sup>18</sup>

8           The Act limits contributions to non-authorized, non-party committees to \$5,000 in any  
9 calendar year.<sup>19</sup> The Act also prohibits any candidate or political committee from knowingly  
10 accepting any contribution in violation of § 30116.<sup>20</sup>

11           Following the decisions in *Citizens United v. FEC*<sup>21</sup> and *SpeechNow.org v. FEC*,<sup>22</sup> the  
12 Commission concluded in Advisory Op. 2010-11 (Commonsense Ten) that individuals, political  
13 committees, corporations, and labor organizations may make unlimited contributions to  
14 independent expenditure-only political committees, and that such committees may solicit  
15 unlimited contributions from such persons. Thus, committees such as CPA that have registered

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<sup>18</sup> See 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. §§ 300.60, 300.61.

<sup>19</sup> 52 U.S.C. § 30116(a)(1)(C).

<sup>20</sup> *Id.* § 30116(f).

<sup>21</sup> 558 U.S. 310 (2010).

<sup>22</sup> 599 F.3d 686 (D.C. Cir. 2010).

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1 with the Commission may accept unlimited contributions from individuals, political committees,  
2 corporations, and labor organizations.<sup>23</sup>

3 2. There Is No Reason to Believe Respondents Made an Excessive  
4 Contribution

5 Political committees like CPA that make only independent expenditures, and do not make  
6 any contributions,<sup>24</sup> may accept unlimited contributions from individuals and from other political  
7 committees like the 18th District Committee.<sup>25</sup> Accordingly, the 18th District Committee, in  
8 making a \$25,000 contribution to CPA, has not made an excessive contribution. The  
9 Commission thus finds no reason to believe that the 18th District Committee violated 52 U.S.C.  
10 § 30116(a).

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<sup>23</sup> See Letter from Jonathan Martin, CPA Treasurer, to FEC (Sept. 27, 2011) (notifying the Commission that CPA intends to make independent expenditures and will not use its funds to make contributions), *available at* <http://docquery.fec.gov/pdf/262/11030664262/11030664262.pdf>.

<sup>24</sup> CPA has not established a separate account for contributions subject to the limitations and prohibitions of the Act. See Stipulated Order and Consent Judgment in *Carey v. FEC*, Civ. No. 11-259-RMC (D.D.C Aug. 19, 2011); see also FEC Statement on *Carey v. FEC*: Reporting Guidance for Political Committees that Maintain a Non-Contribution Account (Oct. 5, 2011), <http://www.fec.gov/press/Press2011/20111006postcarey.shtml>.

<sup>25</sup> See AO 2010-11 (Commonsense Ten); *Citizens United v. FEC*; *SpeechNow.org v. FEC*.

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